

**United States Department of Labor
Employees' Compensation Appeals Board**

ELLA M. POPE, Appellant

and

**SOCIAL SECURITY ADMINISTRATION,
Baltimore, MD, Employer**

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**Docket No. 05-726
Issued: July 13, 2005**

Appearances:
Ella M. Pope, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

COLLEEN DUFFY KIKO, Member
DAVID S. GERSON, Alternate Member
MICHAEL E. GROOM, Alternate Member

JURISDICTION

On February 7, 2005 appellant filed a timely appeal from the Office of Workers' Compensation Programs' November 9, 2004 merit decision, denying her occupational disease claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(d)(2), the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant met her burden of proof to establish that she sustained right carpal tunnel syndrome in the performance of duty.

FACTUAL HISTORY

On September 10, 2004 appellant, then a 57-year-old program analyst, filed an occupational disease claim alleging that she sustained right carpal tunnel syndrome due to her work duties. She indicated that she had to arch her arm and wrist while preparing email messages and other typed documents. Appellant became aware of her condition on June 11,

2004 and realized that it was related to her employment on July 9, 2004. She did not stop working for the employing establishment.

Appellant submitted a June 4, 2004 report in which Dr. Dawn M. LaPorte, an attending Board-certified orthopedic surgeon, indicated that she complained of right upper extremity pain and numbness with the greatest pain in her small finger. She noted that appellant did not identify any specific trauma. On examination appellant had a positive Tinel's sign over the median nerve at the right wrist and over the ulnar nerve at the right elbow. Dr. LaPorte recommended that she undergo electromyogram (EMG) and nerve conduction testing. In a June 11, 2004 report, she stated that the findings of EMG and nerve conduction testing showed evidence of an absent right median sensory response with normal right median motor distal latency and a normal ulnar nerve study with no EMG changes. In a July 9, 2004 report, Dr. LaPorte indicated that appellant had a mild to moderate median neuropathy at the right wrist and recommended that she have steroid injections for her right carpal tunnel syndrome.

In a letter dated September 17, 2004, the Office requested that appellant submit additional factual and medical evidence in support of her claim. In an August 26, 2004 report, in which Dr. LaPorte stated that appellant's "carpal tunnel syndrome was note [sic] likely to have been caused by her employment." She noted that appellant's symptoms "may be aggravated by certain repetitive aspects of her employment, including computer work."¹ The findings of the June 10, 2004 EMG and nerve conduction testing revealed evidence of a mild to moderate right carpal tunnel syndrome.

Appellant also submitted a job description which indicated that she was involved in the development and revision of operating procedures and policy initiatives. The job required the production of written communications, including reports and charts and did not require any "unusual physical effort." Appellant stated that she spent four to five hours per day for five days per week using her keyboard and mouse and her supervisor indicated that she engaged in keying and other repetitive hand and wrist motions for most of her workday.

By decision dated November 9, 2004, the Office denied appellant's occupational disease claim. It accepted that she established employment factors in the form of engaging in keying and other repetitive hand and wrist motions for much of her workday, but found that she did not submit sufficient medical evidence to show that she sustained an injury as a result of these factors.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act² has the burden of establishing the essential elements of her claim, including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which

¹ Appellant also submitted additional copies of previously submitted medical reports.

² 5 U.S.C. § 8101-8193.

compensation is claimed are causally related to the employment injury.³ These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish a causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁵

ANALYSIS

Appellant has established employment factors in the form of engaging in keying and other repetitive hand and wrist motions for much of her workday, but she did not submit sufficient medical evidence to establish that she sustained right carpal tunnel syndrome in the performance of duty.

Appellant submitted reports in which Dr. LaPorte, an attending Board-certified orthopedic surgeon, indicated that she had right carpal tunnel syndrome.⁶ She also submitted an August 26, 2004 report, in which Dr. LaPorte stated that her symptoms "may be aggravated by certain repetitive aspects of her employment, including computer work," but also noted that her carpal tunnel syndrome was not likely to have been caused by appellant's employment.

Dr. LaPorte's reports are of limited probative value on the relevant issue of the present case as her opinion on causal relationship is equivocal and speculative in nature.⁷ Her opinion on

³ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁴ *See Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

⁵ *Victor J. Woodhams*, 41 ECAB 345, 351-52 (1989).

⁶ The findings of June 10, 2004 diagnostic testing revealed evidence of a mild-moderate right carpal tunnel syndrome

⁷ *See Leonard J. O'Keefe*, 14 ECAB 42, 48 (1962); *James P. Reed*, 9 ECAB 193, 195 (1956) (finding that an opinion which is equivocal or speculative is of limited probative value regarding the issue of causal relationship).

causal relationship is unclear in that she indicated that appellant's symptoms "may be aggravated" by work, but also provided an opinion that her carpal tunnel syndrome was not likely to have been caused by her work. Dr. LaPorte did not provide any notable description of appellant's employment factors such as the length of time she engaged in repetitive hand and wrist motions, nor did she provide any findings on examination or diagnostic testing in connection with her apparent opinion on causal relationship. The record does not contain a rationalized medical report explaining how the specific employment factors accepted by the Office could have been competent to cause right carpal tunnel syndrome or some other upper extremity condition.⁸

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish that she sustained right carpal tunnel syndrome in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' November 9, 2004 decision is affirmed.

Issued: July 13, 2005
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

⁸ Appellant submitted additional evidence after the Office's November 9, 2004 decision, but the Board cannot consider such evidence for the first time on appeal. *See* 20 C.F.R. § 501.2